South Sea, Company of &c

THE NATURE OF CONTRACTS CONSIDER'D, AS THEY Relate to the Third and Fourth SUBSCRIPTIONS, taken in by the *SOUTH SEA* COMPANY.

In a LETTER to a FRIEND.

With a POSTSCRIPT, concerning the Meeting at *Salters-Hall*, the 18th inſtant.

By a TRADESMAN of the City, whoſe Name is not to be found in any of the Subſcriptions.

Nullum eſt tempus, quod juſtitiâ vacare debeat, M. T. Cic. de Offic. l. i.

Nihil utile quod non honeſtum: Ibid. l. iii.

HONESTY IS THE BEST POLICY.

LONDON:

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LONDON:

THE NATURE OF CONTRACTS CONSIDER'D.

SIR,

UPON our late Converſation, about the Calamities in which too many are involv'd, by the preſent languiſhing State of Publick Credit, the Decay of Trade, and the ſudden Fall of Stocks, we pleaſed ourſelves with the agreeable Hopes,

that the wiſe and great Prince we have upon the Throne, ſurrounded with able Stateſmen and Patriots, the late Agreement between the *Bank* and *South Sea* Company, together with a Parliament diſpoſed to concert Meaſures for a common Intereſt, would revive our Publick Credit and Trade, and eaſe us of the Difficulties we now labour under.

As we were hereby led to think of the artful Methods which are attempted to redreſs the Grievances of ſome, by making void their Contracts, relating to the Third and Fourth Subſcriptions, taken in by the *South Sea* Company, you were pleas'd to take Notice of the Indignation I expreſs'd againſt ſuch Proceedings, which had ſo plain a Tendency to deſtroy Honour, Credit, and good Faith, in every honeſt Bargain.

But

But being then interrupted in offering you my diſintereſted Thoughts of that diſhoneſt and unreaſonable Scheme, do now preſume to preſent them to you in this manner, for others, as well as your Conſideration. I flatter myſelf that what may be here ſaid, will be inſtrumental to engage abler Hands in the Cauſe of Honeſty; and that my upright Intention will attone for the Defects, which may be diſcovered herein: And I am perſwaded, that I ſhall meet with you fully convinced, that what you mention'd, as the Reaſons which the Purchaſers of thoſe Subſcriptions advanced, in Order to deſtroy their Contracts, are Inconſiſtencies in Reaſon and Fact, make the Equity the ſtronger that they ought to perform them, and, at beſt, do only point out Advantages to the Knave and Lawyer. One

One of the Pretences which you repreſented as made Uſe of in Favour of the Purchaſers of thoſe Subſcriptions, to avoid their Contracts, was, *(viz.)* That the Compliance with them, would be ruinous, as the *Præmium* was from 100 *l.* to 300 *l. per Cent.*

This, you know, is a Way of Reaſoning that is directly oppoſite to the Maxim receiv'd among all honeſt Men, *(viz.)* That Conſcience is never to be ſacrificed to private Intereſt.

And whatever ill Practices may be found among the Stock-Jobbers in *Exchange Alley*, it muſt be acknowledged in their Favour, that even thoſe Magicians never practiſed this *Black Art*, but have turned the Broker out of their Regiment, as it were, by Beat

of

of Drum, who denied his Bargain.

All that can be ſaid in the Caſe of thoſe who have ſuch Bargains depending, and thro' the Change of Affairs will be ruinous to them, is, that it is a compaſſionate One, and ought to be ſuitably reliev'd by the Seller, as far as is conſiſtent with his own Preſervation. Surely, Compoſition ought here to take Place, as well as in other Caſes.

But how inſufficient will this Pretence appear to be, among the many Inſtances of well-meaning Perſons, who, for ready Money, have ſold their ſaid Subſcriptions, at 50 *l.* to 80 *l.* *per Cent.* under the then Market Price, and diſpoſed of the Money in *South Sea* Stock, at 800 *l.* to 1000 *l.* *per Cent.* with a View of its being ſupported by the ſaid Subſcriptions,

and

and others which were expected; and ſo are ruin'd that Way.

Would not the Attempt to cure the imaginary Evil of ſome, in ſuch Caſes, bring double, greater, and more real Grievances on others? Can ſuch a Procedure be reconcil'd to any Colour of Juſtice, Honour, or Reaſon, unleſs thoſe who ſold the *South Sea* Stock, at high Prices, to ſuch Diſpoſers of the Subſcriptions, be compell'd to refund the Money too?

This Plea will further appear to be inſufficient in other Caſes, where many have ſold their Subſcriptions, to receive the *Præmium* at the Delivery of the Receipts, and are leſs able to bear the Loſs of ſuch a Bargain, than thoſe who were Purchaſers are to make them good.

Whilſt

Whilſt I'm conſidering this new ſcandalous Method of ſaving from Ruin, I can't but mention, that Juſtice does more require the refunding of Money paid for *Præmiums* on the Firſt and Second Subſcriptions, which were more than double to thoſe on the Third and Fourth Subſcriptions, though for leſs Money paid in; and, upon Examination, the Ruin will appear greater to innocent Perſons, from the former, than from the laſt Subſcriptions; and the Gain greater thereby, to the Directors, and their Friends. And I can't but think, that when an eminent Gentleman intimated, at the late General Court, that it might be neceſſary for a Commiſſion to be granted, by a proper Power, to aſſign every Man's Right, in Reference to Contracts, that he meant the Redreſs to be general, and did

not intend thereby, that, upon ſuch Enquiry, a real Grievance ſhould be brought upon a Perſon, who had receiv'd the *Præmiums* for his Third Subſcription, and laid it out, at high Prices, in *South Sea* Stock, for the Eaſe of a leſſer Evil of the Purchaſer.

But I now proceed to examine another evaſive Pretence, which is made on the Part of the Buyers of the Third and Fourth Subſcriptions, which is, That they are reduced from 1000 *l.* to 400 *l. per Cent.* and, therefore, this Alteration makes void the Contracts relating thereto. Reaſon will here appear to be ſacrificed to Self-Intereſt; If it's conſidered, that the Subſcriptions did ſubſiſt at 1000 *l. per Cent.* when they were ſold, and the Tenor of ſuch Contracts, could be only on the Part of the Seller, that he would deliver Receipts for

ſo much Money, paid in on a Subſcription taken in at 1000 *l. per Cent.* and as he could not further engage, ſo he could not be, juſtly, a Sufferer by any future Alteration thereof, becauſe he had no Right in it, after ſold; neither did, nor could covenant, that it ſhould not be altered; nor was obliged by the Purchaſer to receive back the Subſcription, if any Alteration ſhould paſs upon it. I would further obſerve, That as the Purchaſer would certainly have claim'd all Advantages attending the Subſcription he bought, ſo the Seller could not be ſubject to any Loſs that might attend any Alteration thereof. And here it will be neceſſary to add an Advantage that the Company (when in a flouriſhing Condition) propoſed to theſe Subſcriptions; which was, allowing them a new Subſcription of 20 *l. per Cent.* And, it's undeniable,

that thoſe who were entitled to theſe Subſcriptions, by Purchaſe, or otherwiſe, were only to be intereſted in this, as well as any other future propoſed Favour to ſuch Subſcriptions.

Beſides, it may be further argued, to explode this Pretence, That this Reduction from 1000 *l.* to 400 *l.* was at the Requeſt, and deſign'd for the Advantage of the Purchaſers: And every reaſonable Being muſt be prejudiced againſt the Perſon who would make this a Foundation to evade an honeſt Bargain. And I venture to aſſert, That he who declares, that in caſe the Subſcriptions continued at 1000 *l.* would rather have comply'd with his Contract, is not to be credited.

I would here take Occaſion to mention, that there have been

Præmiums

Præmiums given from 10 *l.* to 30 *l. per Cent.* for every 100 *l.* Lottery Annuity, to be ſubſcribed into the Capital Stock of the *South Sea* Company; and though the Terms are altered, I don't hear of a Purchaſer, on ſuch Account, who does plead the Diſſolution of the Bargain; becauſe the laſt Terms are made better for them than the firſt. And this is the very Caſe with the Alteration of the Third and Fourth Subſcriptions, that it is for the Advantage of the Purchaſers.

And I may now add, That if the Directors do deliver (conformable to the Reſolution of the laſt General Court) the Receipts for the Third and Fourth Subſcriptions, by mentioning that the ſeveral Sums were received on a Subſcription of 1000 *l.* but reduced to 400 *l. per Cent.* then this enforces

enforces the Performance of Contracts relating thereto, according to the Letter, as well as the Equity of them. Nothing but Fear can prevent them herein.

I paſs on further to conſider another Refuge which ſuch Purchaſers take Sanctuary in, and hope thereby to avoid their Contracts, (*viz.*) That it was the Senſe of the laſt General Court, and ſome of the Directors, who have ſold ſuch Subſcriptions, do not expect the Performance of ſuch Bargains. But how little to the Purpoſe are ſuch Pleas, when every one muſt acknowledge that the Determination of Contracts, does not belong to ſuch Courts; and much leſs can any Thing be urg'd to give a Sanction to Right or Wrong, from what paſſed there, on that Subject, where it was evident that Noiſe and Clamour were trium-

triumphant, and that ſome of the Directors were frightned to ſay or comply with any Thing, relating to ſuch Contracts, to pacify and calm the Fury of many who were exaſperated with their Loſſes. How can any conſiderate Perſon plead any Thing from the Tranſactions of that Day, when Threats, Inſults, Hiſſing, and every rude Behaviour, hinder'd the bare Propoſal of any important Matter? And much more prevented the Conſideration thereof. On ſuch Accounts, the Steps there taken to palliate the [making void ſuch Contracts, may be interpreted as the Effects of Fear, rather than of Reaſon and Equity.

And, ſurely, the Actions of ſome of the Directors, are no Rule to an indifferent Perſon, who when they had the Veneration of the

the People, preſum'd to act Extravangancies, and now they have loſt that Prop, and the Scene is chang'd, are yielding to contrary Extremes, and ſhew the Example of a mean Spirit. The Reaſons are plain enough why ſome are willing to refund Part of their exorbitant Gains, but they no Ways invalidate what I have offered, to prove that in all good Conſcience and Equity, every honeſt Bargain, relating to the Third and Fourth Subſcriptions, ought to ſtand, as well as thoſe which have related to Stock, at high Prices, or the Firſt and Second Subſcriptions, at higher *Præmiums*. I can't but here remark, That the *Director* who made the Motion for deſtroying ſuch Contracts, is ſo far from deſerving the univerſal Thanks of all *Britain*, as the fulſome Flatterer ſuggeſts, in a Letter to a Friend in Vindication of the *South Sea* Company,

pany, &c. *P.* 22. that, in my Opinion, he falls under the Cenſure of every honeſt Man, unleſs this ſtrange Conceſſion is expected to be made, that good Faith, and Honeſty, have lately ſuffered a Change in their Natures, in Order for him and his Friends, more quietly to enjoy their extravagant Gains on the Firſt and Second Subſcriptions.

Upon the whole, it is apparent, that the Buyers of the Stock, and of the Firſt and Second Subſcriptions, at high Prices, have the beſt Foundation to expect the Diſſolution of their Bargains, if the Nature of Contracts ſhould fall under the Conſideration of a *Britiſh* Parliament; becauſe the laſt ſubſcribed Annuities, and the Third and Fourth Subſcriptions, (being their beſt Supports) are ſo much altered to their Diſadvantage.

I would now only obſerve, that I might have argued the evil Tendency of this Doctrine of making void Bargains, to introduce falſe Dealings among Tradeſmen, to depretiate Publick Credit, and even the Company's Stock; and have pleaded the Force of that univerſally receiv'd Rule, that every one ought to do as he would be done by, to ſtrengthen what I have advanced: But I have already enlarged beyond my Deſign.

And before I take my Leave of you, I declare, that I'm ſorry if the Thread of my Thoughts has led me to expreſs any Thing, diſreſpectfully of any of the Directors, or ſhould be interpreted a Slight upon many of them, who are known to deſerve the good Opinion of all true Lovers of their Country. I hope to be juſtified,

in part by them, when it appears, that One of my Deſigns is here plainly levell'd againſt thoſe, who make illegal and unjuſtifiable Attempts on ſome of their Perſons, in Order to frighten them to a Compliance with unreaſonable Demands.

The obtaining of ſuch a Spirit, in order to make void loſing (but honeſt) Bargains, ſhould be oppoſed by all true *Britons*. And I am, on this as well as other Accounts, in Hopes, that the Legiſlative Power, will conſider the Conſequences of Things, and not give into any Law to humour ſuch dangerous Members of the Community, to remedy Evils for ſome, which may Occaſion greater Miſeries to others. But every Well-wiſher to a Publick Good will rejoyce, if any Law is enacted to prevent ſuch Practices for the fu-

ture, and, in the mean Time, an Obligation to perform Contracts, on the Part of the Purchaſers, will be an effectual Remedy, to prevent themſelves, and others, from running into the ſame extravagant Actions again. I remain in Expectation of our Agreement in theſe Matters, at your next Meeting with,

London, *Oct.* 18, 1720.

SIR,

Your moſt humble Servant.

POST-

POSTSCRIPT.

UPON concluding this Letter, I had the Curioſity to attend the Aſſembly, call'd together by Advertiſement, at *Salters-Hall*, to conſider of Matters relating to their Intereſt in the *South Sea Company*; where I found Mr. *B----g----ll* in the Chair, attended by ſome others, who gave juſt Reaſon to ſuſpect, That One of their Deſigns was, to make ſome further Attempt to vacate their late Bargains; and for that, and other miſchievous Ends, ſome of the *Secret Committee*, propoſed to

ſign

ſign a Paper in Mr. *B----g----ll*'s Hand, to call a General Court, without giving a Reaſon for ſuch a Step, tho' they were call'd upon to do it. Others were for chooſing a Committee for *Schemes* and *Projects*; but many who were ſenſible of the evil Tendency of ſuch Proceedings, oppoſed theſe deſigning Perſons.

You may be ſure Mr. *W--lk--r* was a great Man in this confuſed *Aſſembly*, and exerted his uſual *Talents*, in hopes, no doubt, of being One of the propoſed *Committee*. But ſuch a *Cabal* of *Sh---p---s*, and their *Adherents*, (Expreſſions which I found in a late printed Speech of that Gentleman's) were prevented by the ſeaſonable Appearance of One of the Sheriffs, to diſperſe the whole Body.

I was there put in Mind, by ſome other maſterly Strokes, to be found in the ſaid quoted Speech, That *Newmarket Heath* wou'd have been fitter for the deſigning Men in this Aſſembly, than any Place in this *City*; where they might, by the Direction of the Speech-maker, have form'd the *Troop of Horſe*, he peculiarly referr'd to.

But my chief Deſign in giving you an Account of this Meeting, is, further to convince you that thoſe who endeavour to bring Diſhonour in Bargains into Faſhion (and ſuch, I'm inform'd, were the Promoters of this Meeting) will even venture to take Methods which tend to create Riots in this City, in order to accompliſh their monſtrous Deſigns.

FINIS.

I was there put in Mind, by
some other malicry Strokes, to be
found in the said quoted Speech,
That Newmarket Heath would have
been fitter for the designing Men
in this Assembly, than any Place
in this City; where they might,
by the Direction of the Speech-
maker, have form'd the Troop of
Horse, he peculiarly refer'd to.

But my chief Design in giving
you an Account of this Meeting, is,
further to convince you that those
who endeavour to bring Dishonour
in Bargains into Fashion (and such,
I'm informed, were the Promoters
of this Meeting) will even venture
to take Methods which tend to
create Riots in this City, in order
to accomplish their monstrous De-
signs.

FINIS.